

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MACHELLE R. COLLINS,
Plaintiff,

Civil Action No. 1:09-cv-510
Barrett, J.
Hogan, M.J.

vs.

COMMISSIONER OF
SOCIAL SECURITY,
Defendant

REPORT AND RECOMMENDATION

Plaintiff brings this action pursuant to 42 U.S.C. § 405(g) for judicial review of the final decision of the Commissioner of Social Security denying plaintiff's application for disability benefits. Plaintiff's complaint was filed on July 24, 2009 (Doc. 3), and an answer was filed on September 23, 2009. (Doc. 6). The administrative record was filed on September 24, 2009. (Doc. 7).

The Magistrate Judges' General Order Concerning Social Security Appeals (filed Jan. 28, 2005) sets forth the procedures which parties must follow in social security cases before this Court. This General Order requires plaintiff to file a Statement of Errors upon which plaintiff seeks reversal or remand of the Commissioner's decision within 45 days of service of the answer and administrative record. On December 1, 2009, the Court granted plaintiff an additional forty-five (45) days to file and serve a Statement of Errors upon which plaintiff seeks reversal or remand in accordance with the Magistrate Judges' General Order Concerning Social Security Appeals. (Doc. 13). Plaintiff failed to comply with the Court's Order and on February 1, 2010, the Court ordered plaintiff to show cause, within twenty (20) days, why this matter should not be dismissed for her failure to file a Statement of Errors. (Doc. 14).

To date, more than twenty (20) days later, plaintiff has yet to respond to the Court's Show

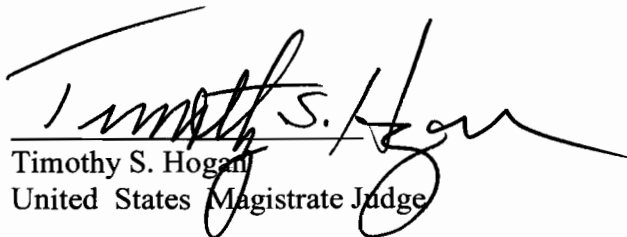
Cause Order or file a Statement of Errors. Accordingly, dismissal is appropriate. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962); *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991).

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's complaint be **DISMISSED** with prejudice for lack of prosecution.
2. The Court certify pursuant to 28 U.S.C. § 1915(a) that for the foregoing reasons an appeal of this Order would not be taken in good faith and therefore deny plaintiff leave to appeal *in forma pauperis*. Plaintiff, a non-prisoner, remains free to apply to proceed *in forma pauperis* in the Court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6th Cir. 1997).

Date:

3/2/10


Timothy S. Hogan
United States Magistrate Judge

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NOTICE TO PARTIES REGARDING FILING OF OBJECTIONS TO R&R

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation ("R&R") within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent's objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

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1:0 acv 510 (Doc. 16)